IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 2152 OF 2006
IN
APPEAL NO. 492 OF 2006
IN
ARBITRATION PETITION NO.156 OF 2005

Jindal Drugs Limited .. Appellant.

V/s.

Noy Vallesina Engineering SPA .. Respondent.

Dr.Virendra Tulzapurkar with Ms. Alpana Ghone & Mr.Sudeep Suvarna i/by M/s.DSK Legal for the Appellant.

Mr.F.E.D'Vitre, Senior counsel with Mr.L.K.Bhushan wi th Mr.Jay Joshi i/by Mr. A.T.Agarwal for the Respondent.

CORAM : R.M.LODHA & S.A.BOBDE,JJ.

DATED : 07TH NOVEMBER, 2006.

P.C.:

. We heard the senior counsel for the parties for quite some time.

2. The Appeal has already been admitted. In the light of the submissions made before us by the senior counsel for the Appellant, we considered the impugned judgment for the purposes of interim relief.

3. Having considered all aspects and in the totality of facts and circumstances of the case, we are

of the view that ad-interim order dated 27th July, 2006 deserves to be modified. The following order, in our considered view, shall meet the ends of justice until the disposal of Appeal :

i. The Appellant shall deposit a sum of Rs.05,75,00,000/- (Rupees Five crore seventy-five lakhs) with the Prothonotary and Senior Master of this Court within two months from today.

ii. As a security for the remaining amount under the impugned judgment, the Appellant is directed not to sell, dispose of or create any third party right or interest in any manner whatsoever in the immovable properties set out in Exhibit-1, annexed with the Affidavit dated 9th of August, 2006, until disposal of the Appeal.

iii. Upon deposit of the amount of Rupees Five crore seventy-five lakhs, as aforedirected, the Prothonotary and Senior Master is directed to invest the said amount in a fixed deposit of any

nationalised bank, initially for a period of one year, renewable thereafter for the same period each time, until the disposal of the Appeal.

4. Subject to the compliance of the directions contained in clause (i) and (ii) above, the execution of the impugned judgment dated 5th of June, 2006 shall remain stayed.

5. We record and accept the statement made by the senior counsel on behalf of the Appellant that the immovable properties set out in Exhibit -1 annexed with the affidavit dated 9th of August, 2006 are unencumbered.

6. It is clarified that the Appellant shall be at liberty to deal with the investments (Tax Free Bonds) set out in Exhibit-1 and that there is no restraint order in this regard.

7. Hearing of the Appeal is expedited and office is directed to place the matter for hearing on board in the month of June, 2007.

8. Notice of motion stands disposed of.

(R.M.LODHA,J.)

(S.A.BOBDE,J.)